

In the Matter Of:

DUNIGAN vs BRONSON METHODIST HOSPITAL, ET AL.

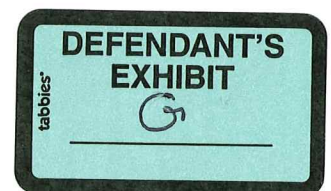
ROBERT STARK, M.D.

March 02, 2018

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STARK, M.D., ROBERT
03/02/2018

Pages 53-56

<p style="text-align: right;">Page 53</p> <p>1 pressure.</p> <p>2 Q. And I can't recall if you didn't see it. You were</p> <p>3 aware that they rechecked the pulse and it was at 90?</p> <p>4 A. Yes.</p> <p>5 Q. That wouldn't indicate any instability, true?</p> <p>6 A. No.</p> <p>7 Q. So are you aware of any evidence indicating that he</p> <p>8 was unstable at the time of discharge?</p> <p>9 A. No.</p> <p>10 Q. Are you aware of any evidence indicating that</p> <p>11 Mr. Dunigan was treated any differently than any other</p> <p>12 patient who might have presented to Bronson with the</p> <p>13 same symptoms and history?</p> <p>14 A. I think he was, and the evidence is that he was given</p> <p>15 short shrift compared to other people who had come in</p> <p>16 with a fall and dizziness. He wasn't given a simple</p> <p>17 electrocardiogram, where other patients would have</p> <p>18 received one. And in escorting him out of that</p> <p>19 hospital, the staff were mocking him and provoking</p> <p>20 him, which is highly unusual for ER patients. I do</p> <p>21 think he was treated differently.</p> <p>22 Q. Have you seen records or any evidence about how other</p> <p>23 patients are treated at Bronson?</p> <p>24 A. No, none.</p> <p>25 Q. You don't know of anybody else who may have presented</p>	<p style="text-align: right;">Page 55</p> <p>1 than what people get in any community.</p> <p>2 Q. And even though you may believe that, you can't say</p> <p>3 that the reason he got the treatment he got was</p> <p>4 because of any of his characteristics or his financial</p> <p>5 standing?</p> <p>6 A. I can't prove it.</p> <p>7 Q. And you can't point to any evidence which would</p> <p>8 support it, true?</p> <p>9 A. When the staff say "Act like a grown up ass man. Are</p> <p>10 you fucking stupid," that's evidence that the</p> <p>11 treatment is from how they are disposed to him as a</p> <p>12 human being.</p> <p>13 Q. As far as treatment in the Emergency Department as</p> <p>14 opposed to after he went to the waiting room, are you</p> <p>15 aware of any improper motive for the way he was</p> <p>16 treated and assessed?</p> <p>17 A. Just, just what I've described, his profile.</p> <p>18 Q. Are you able to offer -- I don't see anything in your</p> <p>19 report about EMTALA. Are you going to claim that</p> <p>20 there is some EMTALA violation in this case?</p> <p>21 A. Yes. If asked, yes. My report was based on his</p> <p>22 medical treatment and how it impacted him.</p> <p>23 Q. Has anybody advised you that this is not a medical</p> <p>24 malpractice claim?</p> <p>25 A. Recently, yes.</p>
<p style="text-align: right;">Page 54</p> <p>1 with the same or similar symptoms who were treated any</p> <p>2 differently than Mr. Dunigan was, true?</p> <p>3 A. I know that humane standards and medical standards in</p> <p>4 Kalamazoo, Michigan are the same or similar to other</p> <p>5 communities including mine in Greenwich, Connecticut.</p> <p>6 These medical treatments and interpersonal</p> <p>7 interactions were far different than what anyone would</p> <p>8 see in any community.</p> <p>9 Q. Are you aware of any evidence indicating that</p> <p>10 Mr. Dunigan was treated differently because of his</p> <p>11 age, sex, race, socioeconomic status, religion or any</p> <p>12 other improper reason?</p> <p>13 A. I think he was. The hard evidence that you asked for</p> <p>14 is just the indication of his past medical history</p> <p>15 that's part of the ER chart that he had used drugs,</p> <p>16 that his race was African-American, that he may be</p> <p>17 homeless, these are the indicators that I think</p> <p>18 underlie the treatment that he got.</p> <p>19 Q. Those are characteristics he had.</p> <p>20 What evidence, if any, are you aware of</p> <p>21 that those factors entered into his treatment</p> <p>22 decisions or any decisions by Bronson?</p> <p>23 A. I can't see into the brains of the staff who</p> <p>24 interacted with him, but those indicators were present</p> <p>25 and the treatment that he got was markedly different</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. So back when you did your report, nobody told you that</p> <p>2 this was an EMTALA case?</p> <p>3 A. I don't believe so, no.</p> <p>4 Q. Did you offer any opinion as to whether there were any</p> <p>5 EMTALA violations?</p> <p>6 A. In talking with the -- I don't recall.</p> <p>7 Q. Are you familiar with EMTALA?</p> <p>8 A. Yes, I am.</p> <p>9 Q. What's your understanding of what EMTALA requires?</p> <p>10 A. Requires to provide emergency medical care and labor</p> <p>11 and delivery care without discrimination on religion,</p> <p>12 economic status, racial background, things like that.</p> <p>13 Q. Do you know what the statute says?</p> <p>14 A. No.</p> <p>15 Q. Do you know whether EMTALA requires that the providers</p> <p>16 actually recognize and perceive that the patient has</p> <p>17 an emergency medical condition?</p> <p>18 A. I'm aware that this applies to emergency conditions.</p> <p>19 Not being a lawyer, I don't know what the statute</p> <p>20 specifically says.</p> <p>21 Q. Would it be fair to say then that you don't know if</p> <p>22 there was an EMTALA violation in this case?</p> <p>23 A. Oh, I know there was an EMTALA violation in that they</p> <p>24 sent this individual out without stabilizing him or</p> <p>25 doing appropriate workup.</p>

STARK, M.D., ROBERT
03/02/2018

Pages 73-76

<p style="text-align: right;">Page 73</p> <p>1 car, would you agree that you have no information</p> <p>2 indicating that any Bronson person ever observed that</p> <p>3 event?</p> <p>4 A. Yes. If it occurred in the police car, then the</p> <p>5 Bronson staff didn't observe that event. They still</p> <p>6 observed the buckling of his legs and inability to</p> <p>7 walk in the waiting room.</p> <p>8 Q. Which you indicated you could not determine whether</p> <p>9 that was voluntary or involuntary?</p> <p>10 A. That is correct. No way to determine that.</p> <p>11 Q. Are you aware of any indication that any Bronson</p> <p>12 employee ever observed Mr. Dunigan being short of</p> <p>13 breath or complaining of shortness of breath?</p> <p>14 A. No, I don't believe so.</p> <p>15 Q. Do you have any opinion as to Mr. Dunigan's life</p> <p>16 expectancy if he had survived this evening, or this</p> <p>17 morning?</p> <p>18 A. I haven't been asked, but I do.</p> <p>19 Q. What would that be?</p> <p>20 A. He was 57 years old, and I honestly would estimate 67</p> <p>21 or something like that.</p> <p>22 Q. On what basis?</p> <p>23 A. His medical condition, his lifestyle, his living</p> <p>24 conditions. He could not have lived into the 80s like</p> <p>25 one of the medical experts estimated.</p>	<p style="text-align: right;">Page 75</p> <p>1 A. There's no indication in the records that we have.</p> <p>2 Q. In your opinion, is losing one's balance an indication</p> <p>3 necessarily of a medical problem?</p> <p>4 A. It could be, yes.</p> <p>5 Q. Is it always?</p> <p>6 A. No.</p> <p>7 Q. If I'm attempting to walk along a curb, I may lose my</p> <p>8 balance and fall off the curb into the street or onto</p> <p>9 the sidewalk without any medical condition causing</p> <p>10 that, true?</p> <p>11 A. That's right.</p> <p>12 Q. And if I have hemiparesis due to a past stroke and</p> <p>13 need a cane to ambulate and I'm getting off a bus, I</p> <p>14 can fall and lose my balance without any medical</p> <p>15 problem, true?</p> <p>16 A. That's possible due to weakness of one leg, but this</p> <p>17 patient specifically said that he was dizzy. He</p> <p>18 became dizzy and didn't feel himself.</p> <p>19 Q. And was it your understanding that that was a</p> <p>20 historical complaint? In other words, he was</p> <p>21 describing what happened at the time of the fall?</p> <p>22 A. Yes.</p> <p>23 Q. And again, I can't recall if you saw the EMS records</p> <p>24 or not. You did indicate you were aware of the blood</p> <p>25 sugar test by EMS?</p>
<p style="text-align: right;">Page 74</p> <p>1 Q. Do you know the average life expectancy of a patient</p> <p>2 in end stage renal disease on dialysis?</p> <p>3 A. I think it's six to eight years.</p> <p>4 Q. What do you base that on?</p> <p>5 A. Just my reading.</p> <p>6 Q. Mr. Dunigan was a patient with end stage renal disease</p> <p>7 on dialysis, true?</p> <p>8 A. Yes, he was.</p> <p>9 Q. Is that life expectancy shortened if the patient is</p> <p>10 noncompliant with dialysis?</p> <p>11 A. If noncompliant, yes.</p> <p>12 Q. Do you believe Mr. Dunigan had any responsibility for</p> <p>13 his own well-being?</p> <p>14 A. Yes.</p> <p>15 MR. HARRINGTON: Objection to form and</p> <p>16 foundation.</p> <p>17 BY MR. O'LOUGHLIN:</p> <p>18 Q. If he was having a medical or physical problem, would</p> <p>19 you expect him to tell people about that if he wanted</p> <p>20 help?</p> <p>21 A. Yes.</p> <p>22 Q. Are you aware of any indication that Mr. Dunigan ever</p> <p>23 indicated that he wanted help or medical attention</p> <p>24 after the time he left the Emergency Department and</p> <p>25 went to the waiting room?</p>	<p style="text-align: right;">Page 76</p> <p>1 A. Yes.</p> <p>2 Q. Do you know where you got that information?</p> <p>3 A. Right.</p> <p>4 Q. Do you know where you got that information?</p> <p>5 A. I actually got to see that EMS this morning as part of</p> <p>6 the deposition earlier, so we have it here in the</p> <p>7 room.</p> <p>8 Q. From that, the EMS report, did you note that</p> <p>9 Mr. Dunigan's breathing at the time EMS saw him was</p> <p>10 normal, unlabored and clear?</p> <p>11 A. Yes.</p> <p>12 Q. Were you aware from that report that he ambulated with</p> <p>13 assistance to the stretcher?</p> <p>14 A. No, but I wouldn't be surprised.</p> <p>15 Q. Did you find anything abnormal about his vital signs</p> <p>16 as they were taken by the EMS personnel?</p> <p>17 A. I just need to locate that sheet. All those vital</p> <p>18 signs were normal except his blood pressure was on the</p> <p>19 low side.</p> <p>20 Q. Low end of normal?</p> <p>21 A. Yes, and very low for this individual.</p> <p>22 Q. And did you note that EMS found him to have no</p> <p>23 complaints of chest pain, shortness of breath, nausea,</p> <p>24 vomiting, weakness, dizziness, numbness or tingling?</p> <p>25 A. Where, where was that in the EMS report?</p>